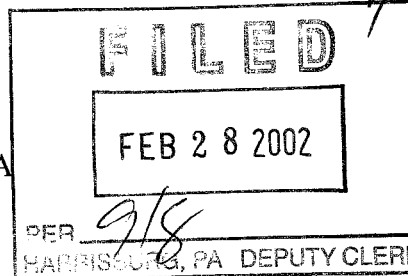


ORIGINAL
S to C

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA



YORK WALLCOVERINGS, INC.
Plaintiff

No.: 1:CV:01-0793

vs.

S.A. MAXWELL COMPANY, INC. AND
JAIMA BROWN
Defendants

(The Hon. Sylvia H. Rambo)

**EXHIBITS TO PLAINTIFF'S
MEMORANDUM IN SUPPORT OF
APPLICATION FOR AN ORDER TO SHOW CAUSE**

BARLEY, SNYDER, SENFT & COHEN, LLC

Date: 2/27/02

BY: *Kendra D. McGuire*
Bruce J. Wolstoncroft, Esquire
Kendra D. McGuire, Esquire
Attorneys for Plaintiff
York Wallcoverings, Inc.

126 East King Street
Lancaster, PA 17602
(717) 299-5201
Court I.D. No. 43923
Court I.D. No. 50919

A

CHANGES

Fees are effective through June 30, 2002. After that date, check the Copyright Office Website at www.loc.gov/copyright or call (202) 707-3000 for current fee information.

FORM VA
 Form of the Visual Arts
 UNITED STATES COPYRIGHT OFFICE
 REGISTRATION NUMBER

VA VAU
 EFFECTIVE DATE OF REGISTRATION

Month Day Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

TITLE OF THIS WORK ▼

Elephant Sidewall

NATURE OF THIS WORK ▼ See instructions

Artwork / pattern of print reproduced on wallcoverings and, if necessary, fabric

PREVIOUS OR ALTERNATIVE TITLES ▼
 Design SP 1306

Publication as a Contribution: If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

If published in a periodical or serial give: Volume ▼ Number ▼ Issue Date ▼ On Page ▼

NAME OF AUTHOR ▼

a Banafshe Schippel

DATES OF BIRTH AND DEATH
 Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"? ☒ No

Author's Nationality or Domicile
 Name of Country

OR { Citizenship of ▼
 Domiciled in ▼ United Kingdom

Was This Author's Contribution to the Work
 Anonymous? ☐ Yes ☒ No
 Pseudonymous? ☐ Yes ☒ No
 If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Check appropriate box(es). See instructions

☐ 3-Dimensional sculpture ☐ Map ☐ Technical drawing
☒ 2-Dimensional artwork ☐ Photograph ☐ Text
☐ Reproduction of work of art ☐ Jewelry design ☐ Architectural work

NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH
 Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"? ☐ Yes ☒ No

Author's Nationality or Domicile
 Name of Country

OR { Citizenship of ▼
 Domiciled in ▼

Was This Author's Contribution to the Work
 Anonymous? ☐ Yes ☒ No
 Pseudonymous? ☐ Yes ☒ No
 If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Check appropriate box(es). See instructions

☐ 3-Dimensional sculpture ☐ Map ☐ Technical drawing
☐ 2-Dimensional artwork ☐ Photograph ☐ Text
☐ Reproduction of work of art ☐ Jewelry design ☐ Architectural work

Year in Which Creation of This Work Was Completed

1999

This information must be given in all cases.

Date and Notice of First Publication of This Particular Work

Complete this information ONLY if this work has been published.

Month Day Year
 Oct 25 1999

Nation

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

York Wallcoverings, Inc.
 750 Linden Avenue
 York, PA 17404

Transfer: If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

By written contract, transfer of all rights by the author.

APPLICATION RECEIVED

ONE DEPOSIT RECEIVED

TWO DEPOSITS RECEIVED

FUNDS RECEIVED

DO NOT WRITE HERE
 OFFICE USE ONLY

See instructions before completing this space.

MORE ON BACK ▼
 - Complete all applicable spaces (numbers 5-9) on the reverse side of this page.
 - See detailed instructions.
 - Sign the form at line 8.

DO NOT WRITE HERE
 Page 1 of 1 pages

EXAMINED BY _____

CHECKED BY _____

☐ CORRESPONDENCE

Yes _____

FOR
COPYRIGHT
OFFICE
USE
ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☐ Yes ☒ No If your answer is "Yes," why is another registration being sought? (Check appropriate box.)a. ☐ This is the first published edition of a work previously registered in unpublished form.b. ☐ This is the first application submitted by this author as copyright claimant.c. ☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give Previous Registration Number

Year of Registration

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for a derivative work; complete only 6b for a compilation.
a. Preexisting Material Identify any preexisting work or works that this work is based on or incorporates.

b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed.

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.
Name Account Number

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/ZIP

Kathy Murphy
York Wallcoverings, Inc.
750 Linden Avenue
York, PA 17404

Area code and daytime telephone number (717) 846-4456, ext. 109

Fax number (717) 854-9753

Email MurphyK@YorkWall.Com

CERTIFICATION I, the undersigned, hereby certify that I am the

check only one

☐ author☐ other copyright claimant☐ owner of exclusive right(s)☒ authorized agent of York Wallcoverings, Inc.
Name of author or other copyright claimant, or owner of exclusive right(s)

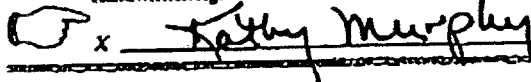
of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date If this application gives a date of publication in space 3, do not sign and submit it before that date.

Kathy Murphy

Date 02/07/01

Handwritten signature DO

Certificate
will be
mailed in
window
envelope
to this
address:Name Kathy Murphy
York Wallcoverings, Inc.
Number/Street/Apt 750 Linden Avenue
City/State/ZIP York, PA 17404YOU MUST:
- Complete all necessary papers
- Sign your application in space 8SEND ALL ELEMENTS
IN THE SAME ENVELOPE1. Application form
2. Non-refundable filing fee in check or money order payable to Registrar of Copyrights
3. Deposit materialMAIL TO
Library of Congress
Copyright Office
101 Independence Avenue, S.E.
Washington, D.C. 20559-6000

CERTIFICATE OF REGISTRATION



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

REGISTER OF COPYRIGHTS
United States of America

FORM CA
For Supplementary Registration
UNITED STATES COPYRIGHT OFFICE

R*

VA 1-108-973



#VA0001108973*

TX	TXU	PA	PAU	VA	VAU	SR	SRU	RE
----	-----	----	-----	----	-----	----	-----	----

EFFECTIVE DATE OF SUPPLEMENTARY REGISTRATION

2
Month

12
Day

02
Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

A

Title of Work ▼

Elephant Sidewall

Registration Number of the Basic Registration ▼

VA1-064-203

Year of Basic Registration ▼

2001

Name(s) of Author(s) ▼

Banafshe Schippel

Name(s) of Copyright Claimant(s) ▼

York Wallcoverings, Inc.

B

Location and Nature of Incorrect Information in Basic Registration ▼

Line Number 2 Line Heading or Description Name of Author; Work Made for Hire

Incorrect Information as It Appears in Basic Registration ▼

Banafshe Schippel; Yes (checked)

Corrected Information ▼

Patricia Scullin; No (checked)

Explanation of Correction ▼

C

Location and Nature of Information in Basic Registration to be Amplified ▼

Line Number 2 Line Heading or Description Year Born

Amplified Information and Explanation of Information ▼

1966; It was subsequently discovered that the author identified herein independently created the work and that the work was not a work made for hire.

MORE ON BACK ►

• Complete all applicable spaces (D-G) on the reverse side of this page.
• See detailed instructions.
• Sign the form at Space F.

DO NOT WRITE HERE
Page 1 of 2 pages

FORM CA RECEIVED

FORM CA

FEB. 12. 2002

FUNDS RECEIVED DATE

EXAMINED BY

WRS

CORRESPONDENCE ☐FOR
COPYRIGHT
OFFICE
USE
ONLY

REFERENCE TO THIS REGISTRATION ADDED TO

BASIC REGISTRATION

☒ YES☐ NO

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

Continuation of: ☐ Part B or ☐ Part C

D

Correspondence: Give name and address to which correspondence about this application should be sent.

Kathy Murphy
York Wallcoverings, Inc.
750 Linden Ave., York, Pa. 17404Phone (717) 846-4456 ext. 109 Fax (717) 854-9753 Email murphyk@yorkwall.com

Deposit Account: If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.

Name

Account Number

Certification* I, the undersigned, hereby certify that I am the: (Check only one)

☐ author☐ owner of exclusive right(s)☐ other copyright claimant☒ duly authorized agent of

York Wallcoverings, Inc.

Name of author or other copyright claimant, or owner of exclusive right(s) ▲

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name ▼ Kathy Murphy

Date ▼

January 3, 2002

Handwritten signature (X) ▼

Kathy Murphy

Certificate
will be
mailed in
window
envelope
to this
address:

Name ▼

Kathy Murphy, York Wallcoverings, Inc.

Number/Street/Apt ▼

750 Linden Avenue

City/State/ZIP ▼

York, Pa. 17404

YOU MUST:

- Complete all necessary spaces
- Sign your application in Space F

SEND ALL ELEMENTS
IN THE SAME PACKAGE

1. Application form
2. Nonrefundable filing fee in check or money order payable to Register of Copyrights

MAIL TO:

Library of Congress
Copyright Office
101 Independence Avenue, S.E.
Washington, D.C. 20559-6000As of July 1,
1999, the fee
for filing Form
CA is \$85.

*17 U.S.C. § 508(e): Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

E

F

G

CHANGES
 Fees are effective through June 30, 2002. After
 that date, check the Copyright Office Website
 at www.loc.gov/copyright or call (202) 707-
 3000 for current fee information.

UKIM VA
 a Work of the Visual Arts
 FEDERAL STATES COPYRIGHT OFFICE
 REGISTRATION NUMBER

VA VAU
 EFFECTIVE DATE OF REGISTRATION

Month Day Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

1

TITLE OF THIS WORK

Elephant Border

NATURE OF THIS WORK See instructions

Artwork /pattern of print reproduced on
 wallcoverings and if necessary, on fabrics

PREVIOUS OR ALTERNATIVE TITLES

Design SP 1374

Publication as a Contribution If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the
 contribution appeared. Title of Collective Work

If published in a periodical or serial give: Volume

Number

Issue Date

On Page

2

NAME OF AUTHOR

a York Wallcoverings, Inc.

DATES OF BIRTH AND DEATH
 Year Born Year Died

Was this contribution to the work a
 "work made for hire?"

☒ Yes
☐ No

Author's Nationality or Domicile
 Name of Country

OR ☐ Citizen of ☐ Domiciled in USA

Was This Author's Contribution to the Work

Anonymous? ☐ Yes ☒ No
 Pseudonym? ☐ Yes ☒ No
 If the answer to either
 of these questions is
 "Yes," see detailed
 instructions.

NOTE

Under the law,
 the "author" of
 a "work made
 for hire" is
 generally the
 employer, not
 the employee
 (see instruc-
 tions). For any
 part of this
 work that was
 "made for hire"
 check "Yes" in
 the space
 provided, give
 the employer
 (or other
 person for
 whom the work
 was prepared)
 as "Author" of
 that part, and
 leave the
 space for dates
 of birth and
 death blank.

NATURE OF AUTHORSHIP Check appropriate box(es). See instructions

☐ 3-Dimensional sculpture ☐ Map ☐ Technical drawing
☒ 2-Dimensional artwork ☐ Photograph ☐ Text
☐ Reproduction of work of art ☐ Jewelry design ☐ Architectural work

NAME OF AUTHOR

DATES OF BIRTH AND DEATH
 Year Born Year Died

Was this contribution to the work a
 "work made for hire?"

☐ Yes
☐ No

Author's Nationality or Domicile
 Name of Country

OR ☐ Citizen of ☐ Domiciled in

Was This Author's Contribution to the Work

Anonymous? ☐ Yes ☐ No
 Pseudonym? ☐ Yes ☐ No
 If the answer to either
 of these questions is
 "Yes," see detailed
 instructions.

NATURE OF AUTHORSHIP Check appropriate box(es). See instructions

☐ 3-Dimensional sculpture ☐ Map ☐ Technical drawing
☐ 2-Dimensional artwork ☐ Photograph ☐ Text
☐ Reproduction of work of art ☐ Jewelry design ☐ Architectural work

3

Year in Which Creation of This Work Was
 Completed

1999

This information
 must be given
 in all cases.

Date and Notice of First Publication of This Particular Work

Complete this information
 ONLY if this work
 has been published.

Month Oct Day 25 Year 1999
USA

4

See instructions
 before completing
 this space.

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the
 author given in space 2.

York Wallcoverings, Inc.
 750 Linden Avenue
 York, PA 17404

Transfer If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a
 brief statement of how the claimant(s) obtained ownership of the copyright.

APPLICATION RECEIVED

ONE DEPOSIT RECEIVED

TWO DEPOSITS RECEIVED

FUNDS RECEIVED

MORE ON BACK - Complete all applicable spaces (numbers 5-8) on the reverse side of this page.
 - See detailed instructions.

DO NOT WRITE HERE

Page 1 of _____ pages

EXAMINED BY

FORM

CHECKED BY

☐ CORRESPONDENCE

Yes

FOR
COPYRIGHT
OFFICE
USE
ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☐ Yes ☒ No If your answer is "Yes," why is another registration being sought? (Check appropriate box.)a. ☐ This is the first published edition of a work previously registered in unpublished form.b. ☐ This is the first application submitted by this author as copyright claimant.c. ☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give Previous Registration Number

Year of Registration

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for a derivative work; complete only 6b for a compilation.
a. Preexisting Material Identify any preexisting work or works that this work is based on or incorporates.

Elephant sidewall (SP 1306); purchased design

a
See instructions
before completing
this space.

b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed.

Enlarged an elephant from a purchased design to create a border.

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.
Name Account Number

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/ZIP

Kathy Murphy
York Wallcoverings, Inc.
750 Linden Avenue

York, PA 17404

Area code and daytime telephone number (717) 846-4456, ext. 109

Fax number (717) 854-9753

Email MurphyK@YorkWall.Com

CERTIFICATION I, the undersigned, hereby certify that I am the

check only one

☐ author☐ other copyright claimant☐ owner of exclusive right(s)☐ authorized agent of

York Wallcoverings, Inc.

Name of author or other copyright claimant, or owner of exclusive right(s)

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date If this application gives a date of publication in space 3, do not sign and submit it before that date.

Kathy Murphy

Date

02/07/01

Handwritten signature DO

☒ x

Kathy Murphy

Certificate
will be
mailed in
window
envelope
to this
address:

Name	Kathy Murphy York Wallcoverings, Inc.
Number/Street/Apt	750 Linden Avenue
City/State/ZIP	York, PA 17404

YOU MUST:

- Complete all necessary spaces
- Sign your application in space 8

SEND ALL ELEMENTS
IN THE SAME PACKAGE

- Application form
- Nonrefundable filing fee in check or money order payable to Register of Copyrights
- Deposit material

U.S. Copyright Office
Library of Congress
Copyright Office
101 Independence Avenue, S.E.
Washington, D.C. 20559-6000



YORK[®]

B

Three Sisters Studio

PASSPORT

C

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

YORK WALLCOVERINGS, INC.	:	
Plaintiff	:	No.: 1:CV:01-0793
	:	
vs.	:	
	:	
S.A. MAXWELL COMPANY, INC. AND	:	(The Hon. Sylvia H. Rambo)
JAIMA BROWN	:	
Defendants	:	

AFFIDAVIT OF LERUE BROWN

AND NOW, the 15th day of February, 2002, I, LeRue Brown, being duly affirmed and in accordance to law, do depose and state as follows:

1. I am the Marketing Director of York Wallcoverings, Inc. ("York") and have been employed in this capacity since January 1, 1995.
2. As Marketing Director, I have assisted in the selection of cover designs for the wallcovering collections offered by York.
3. The cover design is typically descriptive and attempts to be aesthetically appealing while representing the theme and style of the wallcoverings, borders and fabrics contained in the sample book.
4. The cover design of a wallcovering collection is the essential or primary factor in attracting a consumer to a wallcovering collection. It is the cover design that entices the customer to leaf through the offerings contained in any given sample book.

5. The cover design also serves as the customer's reference point if the customer, as is often the case, needs to return to a particular wallcovering that the customer previously saw. The cover design also serves as a reference for designers and store personnel who often assist customers with their selections.

6. The typical lifespan of a wallcovering collection or sample book is three (3) years. While there are deviations from this principle, it is unusual that a wallcovering collection or sample book remains on the market longer than three (3) years.

7. During this three (3) year lifespan of the typical wallcovering sample book, most sales are generated during the first twelve (12) months after publication of the sample book.

8. I first became aware of Maxwell's Sesquicentennial collection when I saw an advertisement for the collection in the January, 2001 edition of "The Wallpaper." The advertisement depicted an elephant that I believed to be a copy of York's elephant as contained on the cover of York's Passport sample book and as depicted in one of the wallcovering designs offered in the collection.

9. My concerns, as well as similar, independent reports from several other York employees and at least one other person who was not a York employee, led me to investigate the possibility that Maxwell copied York's sample book cover design as well as the elephant wallcovering and border designs contained therein.

The foregoing is true and correct to the best of my knowledge, information and belief.

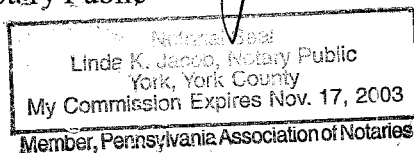
Sworn to and subscribed

before me this 15 day of

February, 2002.)

Linda K. Jacob
Notary Public

1052750.1



LeRue Brown

LeRue Brown, Marketing Director
York Wallcoverings, Inc.

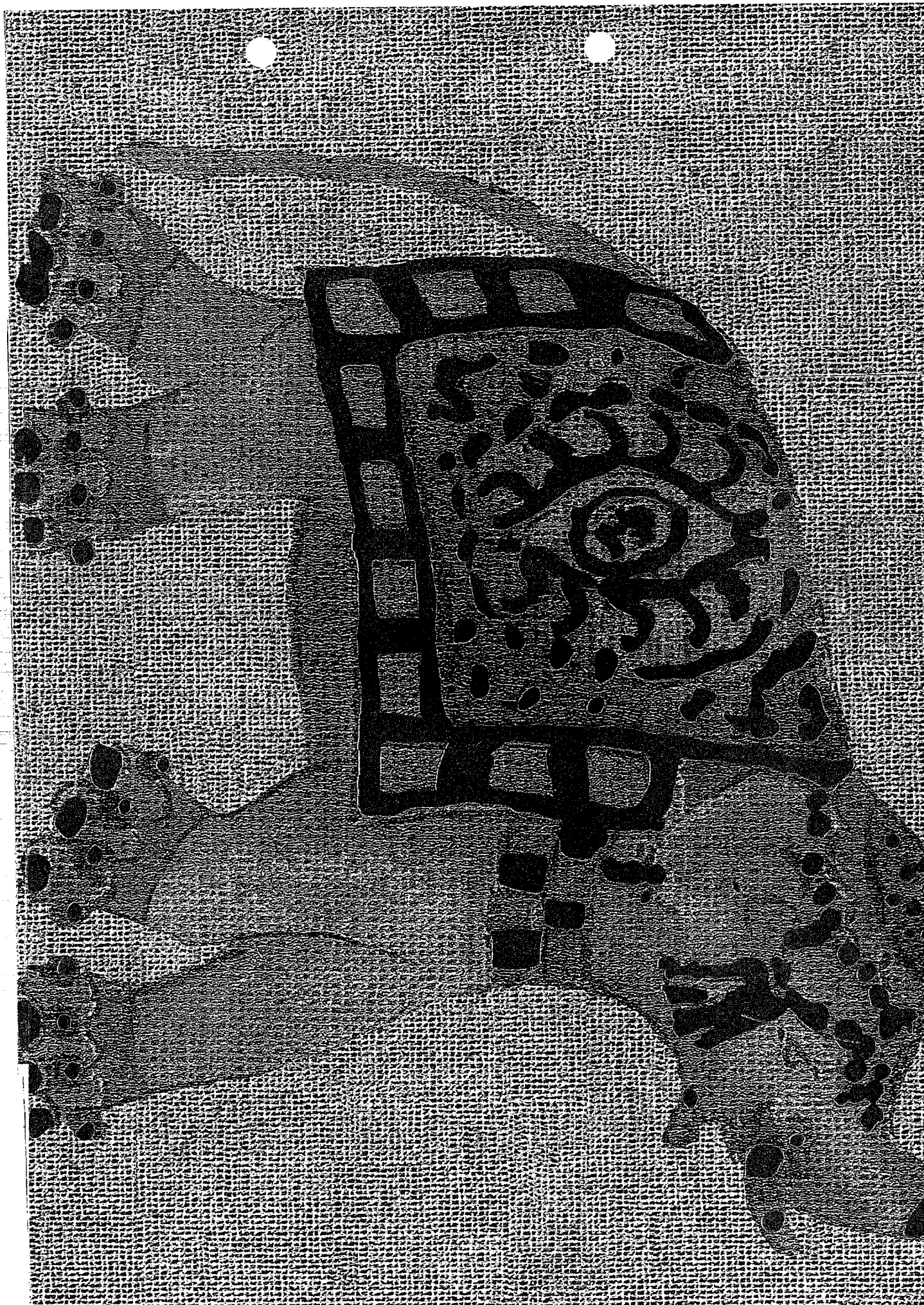
S.A. MAXWELL COO



SESQUICENTENNIAL

CONSTITUTION

AMERICAN AND FABRIC



S.A. MAXWELL CO.

Pine Wallcovering since 1851



SEQUICENTENNIAL

COLLECTION

wallpaper and fabric

VISIT US AT WWW.SAMAXWELL.COM



THE WALLPAPER

The Newspaper of the Wallcoverings Industry

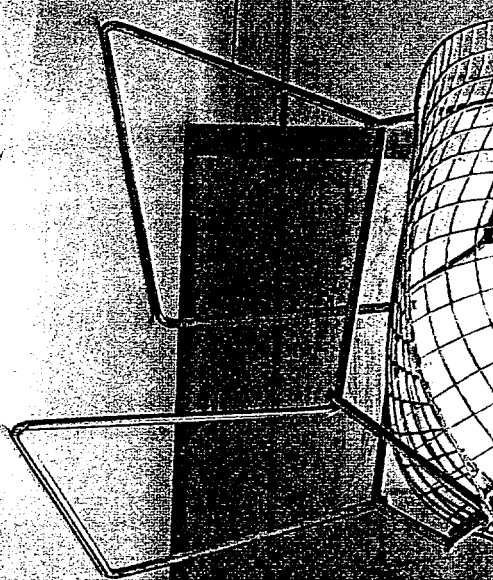
VOL. 21 NO. 3 \$4.00/JANUARY 2001

**Congratulations to
Mel Weinzimer,
2001 Allman Award
Recipient**

**The 2001
Business Forecast**

HALL 67116 61 10*****CAR-R1 SORT**C-017
CARREY VIZLEY C 5 F1
YORK WALLCOVERINGS
750 LINDEN AVE
YORK PA 17404-3373

Design 2001



1 Q Are you referencing all the elephants that
2 you provided to him in your -- in your reference --

3 A Reference pile.

4 Q -- pile?

5 A Yes.

6 Q The next bullet point in your design brief,
7 "Make textural similar to elephant samples." To what
8 are you referring?

9 A Well, I'm referring to this because this is
10 textural fabric and to this texture here.

11 MS. MCGUIRE: So the witness is referring
12 to Brown 5, and we've not marked that other -- a
13 poor color copy, but I think it's a color copy,
14 nevertheless.

15 THE WITNESS: It's the same design. It's
16 the texture I was talking about.

17 MS. MCGUIRE: For purposes of the record,
18 we'll mark this, but I'll ask you to hold onto
19 that.

20 MR. ROBIN: Okay, fine. I have no problem
21 with that.

22 (Brown Deposition Exhibit No. 10
23 marked for identification.)

24 MS. MCGUIRE: For purposes to preserve it,

1 why don't we mark the original as Brown 11.

2 MR. ROBIN: So 10 is the copy and 11 is the
3 original.

4 (Brown Deposition Exhibit No. 11
5 marked for identification.)

6 BY MS. MCGUIRE:

7 Q All right. So that I understand it, the
8 "Make textural similar to elephant samples," refers
9 to Brown 11 and Brown 5?

10 A Uh-huh.

11 Q Is that correct?

12 A Yes, these are the samples.

13 Q That you're referencing in your design
14 brief?

15 A Yes.

16 Q The next bullet point, "This design to
17 coordinate but not to be exact design as fabric."
18 Again, what fabric are you referring to?

19 A Well, that would be these fabrics but
20 mostly fabric as well.

21 MR. ROBIN: Brown 5.

22 BY MS. MCGUIRE:

23 Q Mostly Brown 5 but also referring to
24 Brown 8?

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Exhibits to Memorandum in Support of Application for an Order to Show Cause has been served this

27th day of February, 2002, by first-class mail, postage pre-paid, upon:

Albert Robin, Esquire
Robin, Blecker & Daley
330 Madison Avenue
2nd Floor
New York, NY 10017

Ronald P. Schiller, Esquire
Piper, Marbury, Rudnick & Wolfe, LLP
3400 Two Logan Square
18th & Arch Streets
Philadelphia, PA 19103-2762

Joseph L. Turchi, Esquire
Rawle & Henderson, LLP
The Widener Building
One South Penn Square
Philadelphia, PA 19107

BARLEY, SNYDER, SENFT & COHEN, LLC

By: 

Bruce J. Wolstoncroft, Esquire
Kendra D. McGuire, Esquire
Attorneys for Plaintiff
York Wallcoverings, Inc.

126 East King Street
Lancaster, PA 17602-2893
Court I.D. No. 43923
Court I.D. No. 50919